

## **REMARKS**

Claims 7-8, 13, 19, 24-27, 35-36, 40, and 48-54 are pending. Reconsideration is respectfully requested. Entry of the amendment is requested. No new matter has been added.

### **Claim Rejections**

As best understood, the rejections are based on the claims presented in Applicants' Response filed July 10, 2008 (in reply to the Advisory Action dated June 12, 2008).

Claims 7-8 were rejected under 35 U.S.C. § 103(a) over McClure (US 3,294,342) in view of Granzow (US 4,580,040) and Dallman (US 4,681,044).

Claim 13 was rejected under 35 U.S.C. § 103(a) over McClure in view of Granzow and Milatz (US 4,942,464).

Claims 19 and 40 were rejected under 35 U.S.C. § 103(a) over McClure in view of Granzow.

Claims 24-27 were rejected under 35 U.S.C. § 103(a) over McClure in view of Granzow and Paganini (US 4,398,257).

Claims 35-36 were rejected under 35 U.S.C. § 103(a) over McClure in view of Dallman.

### **Applicants request that the rejection of claims 19 and 40 be withdrawn**

The record shows that the current 35 U.S.C. § 103(a) rejection of claims 19 and 40 based on McClure and Granzow is identical to a previously appealed rejection. That is, the 35 U.S.C. § 103(a) rejection of claims 19 and 40 based on McClure and Granzow was already fully considered by the Board of Patent Appeals and Interferences (BPAI) in Appeal No. 2007-0699. In their decision dated September 21, 2007, the BPAI reversed said rejection of claims 19 and 40. Thus, the Office is legally barred from again asserting these same rejections based on principles of res judicata.

The record shows that because this issue was *already* decided on by the BPAI, the 35 U.S.C. § 103(a) rejection of claims 19 and 40 based on McClure and Granzow is a moot issue. Thus, the rejection of claims 19 and 40 is legally improper and should be withdrawn. Applicants *reserve all rights to petition* against the Office further continuing this improper rejection.

**The references do not render obvious the recited subject matter**

Applicants' appeal remarks regarding the references are herein incorporated by reference.

**Claim 7**

The rejection admits that McClure/Granzow does not teach a door frame. It follows that McClure/Granzow cannot teach or suggest "the frame is in supporting connection with the wall" and that a customer station component is "in supporting connection with the frame".

The rejection (at Action page 6) alleges that Dallman's door (34) has a door frame that is attached to an arcuate shaped wall (32). Applicants respectfully disagree. Nevertheless, even if Dallman somehow taught a door frame for a door (34) as alleged, the rejection still would not teach or suggest a customer station component being in supporting connection with a door frame. None of the references teaches or suggests supporting a customer station component with a door frame. Thus, the Office has not established a *prima facie* case of obviousness.

Nor has the Office presented a valid reason for adding Dallman's *arcuate shaped* wall (32) to McClure/Granzow. Nor has the Office explained how such an arcuate shaped wall could be structurally added to McClure/Granzow. Clearly the Office's attempt to combine the alleged teachings is an attempt at hindsight reconstruction of the claimed invention, which is legally impermissible and does not constitute a valid basis for a finding of obviousness. *In re Fritch*, 23 USPQ2d 1780 (Fed. Cir. 1992). The rejections, which lack the necessary evidence and rationale, are based on knowledge gleaned only from Applicants' disclosure. The record is absent a

teaching, suggestion, motivation, or valid reason for one of ordinary skill in the art to have produced the claimed invention. Thus, the claim 7 rejection should be withdrawn.

### **Claim 13**

The rejection admits that McClure/Granzow does not teach a sensor that “is operative to sense a person positioned adjacent the customer station”. It follows that McClure/Granzow cannot teach or suggest an SP station having “an indicator in operative connection with the sensor”.

The rejection (at Action page 10) alleges that Milatz’s object sensor (16) can sense objects within a specific region (18). The rejection reasons that it would have been obvious to combine Milatz’s object sensor (16) with a customer station in order to detect the presence of a customer in order to enable an SP station to serve the customer more effectively. Applicants respectfully disagree.

First, the Office has not established a *prima facie* case of obviousness. The rejection does not address the feature of an *SP station* having a presence indicator. Nor do any of the references teach or suggest an SP station having a presence indicator. Nor is Milatz’s sensor (16) used to indicate the presence of a person to an SP. Rather, at best Milatz’s sensor (16) used to prevent a thief from receiving dispensed cash (col. 1, lines 51-55).

Second, the provided reason (detect the presence of a customer in order to enable an SP station to serve the customer more effectively) for combining the references is not a legally *valid* reason. In Milatz the “camera 12 is arranged to be switched on by the control unit 24, as soon as the money dispenser 10 is actuated” (col. 2, lines 27-29). The “camera detects a field of view 14” (col. 2, line 1). The sensor (16) responds when an object is located in a region (18; Figure 2) of this field of view (14). Thus, any sensing in Milatz is done at the *end* of a cash dispense

transaction, when an SP is not needed. The record is absent a teaching, suggestion, motivation, or valid reason for one of ordinary skill in the art to have produced the claimed invention.

**Claim 19**

Applicants' remarks filed in Appeal No. 2007-0699 are herein incorporated by reference.

**Claim 24**

The rejection admits that McClure/Granzow does not teach "a queuing device at the SP station", where "the queuing device is in operative connection with each customer actuatable device", and an order (generated by the queuing device) that includes "data representative of a time sequence" in which the devices were actuated.

The rejection (at Action page 17) alleges that Paganini teaches "a queuing device (20 and 28 of fig. 1) at the SP station (40-50 of fig. 1)". Applicants respectfully disagree. Paganini's Figure 1 provides evidence that the alleged queuing device (20, 28) is not at any of the alleged SP stations (40-50). It follows that Paganini cannot teach or suggest the "order" or "time sequence".

Furthermore, it is unclear how Paganini relates to *plural customer stations* connected with a single SP station, where the SP station has a customer queuing device. Rather, Paganini appears to oppositely teach away from the recited invention. Paganini is directed to queue traffic control in a bank that has *plural* bank tellers and a *single* customer waiting line. Paganini directs a next bank customer (who is located at the front of the waiting line) to the bank teller who has been predicted (by an arrangement) to become the next available free teller. The customer is directed to this teller before this teller finishes serving their present customer. Thus, the arrangement increases teller efficiency by saving time. Paganini's next available free teller estimation is based on several factors (e.g., Paganini's claim 1).

The Office has not established a *prima facie* case of obviousness. The record is absent a teaching, suggestion, motivation, or valid reason for one of ordinary skill in the art to have produced the claimed invention.

### **Claim 35**

The rejection (at Action page 20) alleges that Granzow teaches a customer station (ATM 12) that fits between two walls (114 and 146). Applicants respectfully disagree. Granzow's one-way mirror (114; col. 6, lines 37-40) is not a wall. Even if the mirror (114) were somehow construed as a wall, one of ordinary skill in the art would understand that a space between two separated walls is not "a wall *opening*" through "*an interior building wall*" (step a).

The rejection admits that Granzow does not teach a door frame in a wall opening, a transaction component in supporting connection with the frame, or a wall opening cover having a component opening through which the transaction component is accessible.

For reasons already discussed (e.g., claim 7 remarks), Dallman does not teach or suggest a customer station component in supporting connection with a door frame. Thus, the Office has not established a *prima facie* case of obviousness.

The rejection (at Action page 21) alleges that Dallman teaches a cover (32) with a transaction component opening (42). Applicants respectfully disagree. Dallman's "conventional lock assembly 42" (col. 4, line 49) does not constitute an opening through which a transaction component is accessible, especially a transaction component that is in supporting connection with a door frame. Thus, the Office further has not established a *prima facie* case of obviousness.

Nor has the Office presented a valid reason for adding the *arcuate shaped* cover (32) (as alleged in Dallman) to Granzow. The record is absent a teaching, suggestion, motivation, or valid reason for one of ordinary skill in the art to have produced the claimed invention.

#### **Claim 40**

Applicants' remarks filed in Appeal No. 2007-0699 are herein incorporated by reference.

#### **Claims 48-50**

For reasons already discussed, the references also do not teach or suggest the frame arrangements in each of independent claims 48, 49, and 50. These claims also recite additional specific features and relationships not taught or suggested by the references.

#### **The dependent claims**

Each of the dependent claims depends directly or indirectly from an independent claim, which have been shown to be allowable. Thus, the dependent claims are allowable on the same basis. Furthermore, each of the dependent claims recites additional specific features and relationships that further patentably distinguish the claimed invention over the applied art.

#### **The declaration pursuant to 37 C.F.R. § 1.132 submitted herewith**

The declaration is from a person with actual knowledge of the relevant art and level of ordinary skill in the art of transaction systems at the time of the present invention. The declaration establishes that the person of ordinary skill in the art at the time of the present invention would *not* have recognized from the combination of references any teaching or suggestion of the features and relationships recited in the independent claims.

The declaration further establishes that the teachings of the cited references, in combination with the knowledge of one of ordinary skill in the art at the time of the present invention, are insufficient to enable producing the recited invention. Thus, the declaration further establishes that the rejections are legally improper.

It is well settled that "weight ought to be given to a persuasively supported statement of one skilled in the art." *In re Lindell*, 385 F.2d 453, 155 USPQ 521 (CCPA 1967). Applicants

submit that the declaration provides such a statement. The declaration provides evidence that the person of ordinary skill in the art at the time of Applicants' invention would *not* agree with the independent claim rejections, which are based solely on the opinion of the Examiner (whom the record has *not* established as a person of ordinary skill in the art at the time of invention).

#### **The attached document**

Attached is a four-page document titled "1072ix Through The Wall Walk-Up Unit With ix Safe and Polymer Fascia" (File No. 177-385 Rev. 3). The document provides details for mounting a through-the-wall ATM. Contrary to the unsupported opinion of the BPAI in the rehearing decision dated February 15, 2008, the document provides evidence of record against a through-the-wall type of ATM being supported by a wall.

#### **Request for treatment as a "special" case**

This application was filed July 7, 1997. Thus, this application has been pending more than twelve (12) years. In accordance with MPEP § 708.01 (I) and § 707.02 an application pending more than five years is to be treated as a "special" case and be advanced out of turn by the Office. That is, this application was to have been given a very high priority by the Examiner in the order of examination (MPEP § 708), and its priority handling was to have been personally overseen by the supervisory patent examiner (MPEP § 707.02). As the record shows, the Office failed in its prosecution duty, especially with regard to "compact prosecution".

#### **Unlawful taking of patent term time**

As previously mentioned, pendency has been more than twelve (12) years. The Office's propensity to continuously prosecute this application for more than twelve years is not in conformance with the Office's own examining rules and procedures. The time already taken by the Office to prosecute this application is longer than half of a normal full patent term (20 years).

Furthermore, because of the 1997 filing date, prosecution delay time caused by the Office is lost patent term time that Applicants may not be able to recoup (without a lawsuit). The Office is not allowed to reduce a patent term by continually engaging in unnecessary application prosecution. Yet this is the situation regarding this application. The prosecution record gives the impression that the Office purposely continues to unnecessarily prolong prosecution so there eventually will not be any viable patent term remaining for Applicants. Such action by the Office constitutes an unlawful taking of patent term time.

The obfuscation and delay by the examining Group, as evidenced by the record, suggests a pattern of arbitrary and capricious action against Applicants. Such action by the Office violates the Administrative Procedures Act, 5 U.S.C. § 701 *et seq.* as an abuse of agency authority.


**Request for application transfer**

Because of the assigned unit's inability to efficiently examine this application, the Applicants again request that this application be transferred to an examining unit of the Office that is capable of meeting the stated "compact prosecution" goals of the Office.

**Conclusion**

Applicants respectfully submit that this application is in condition for allowance. The undersigned is willing to discuss any aspect of the Application at the Office's convenience.

Respectfully submitted,



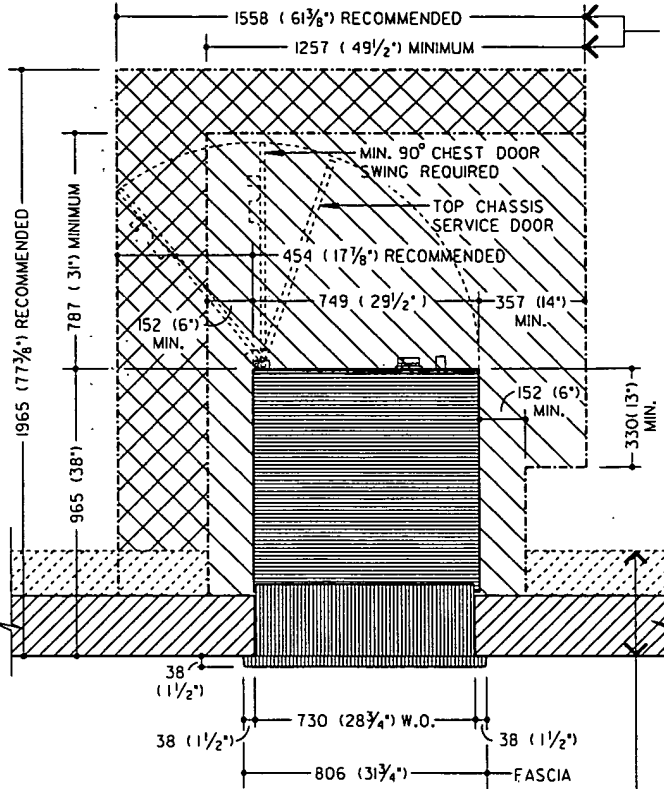
Ralph E. Jocke      Reg. No. 31,029  
WALKER & JOCKE  
231 Broadway  
Medina, Ohio 44256  
(330) 721-0000



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L310385

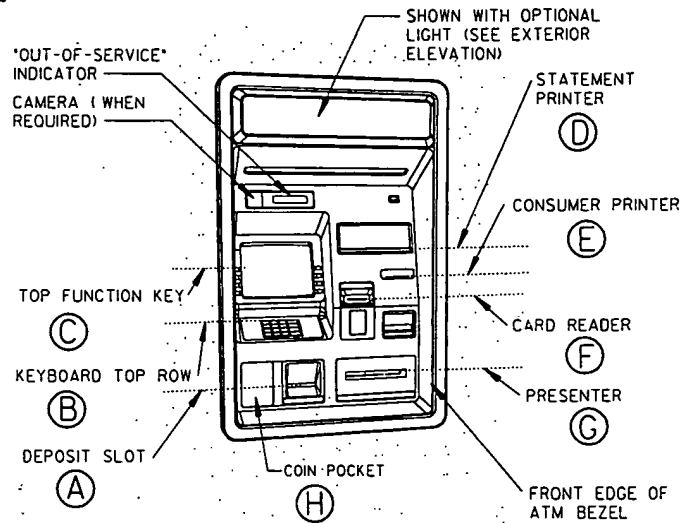
DIMENSIONS IN MILLIMETRES  
(DIMENSIONS IN INCHES)



PLAN VIEW

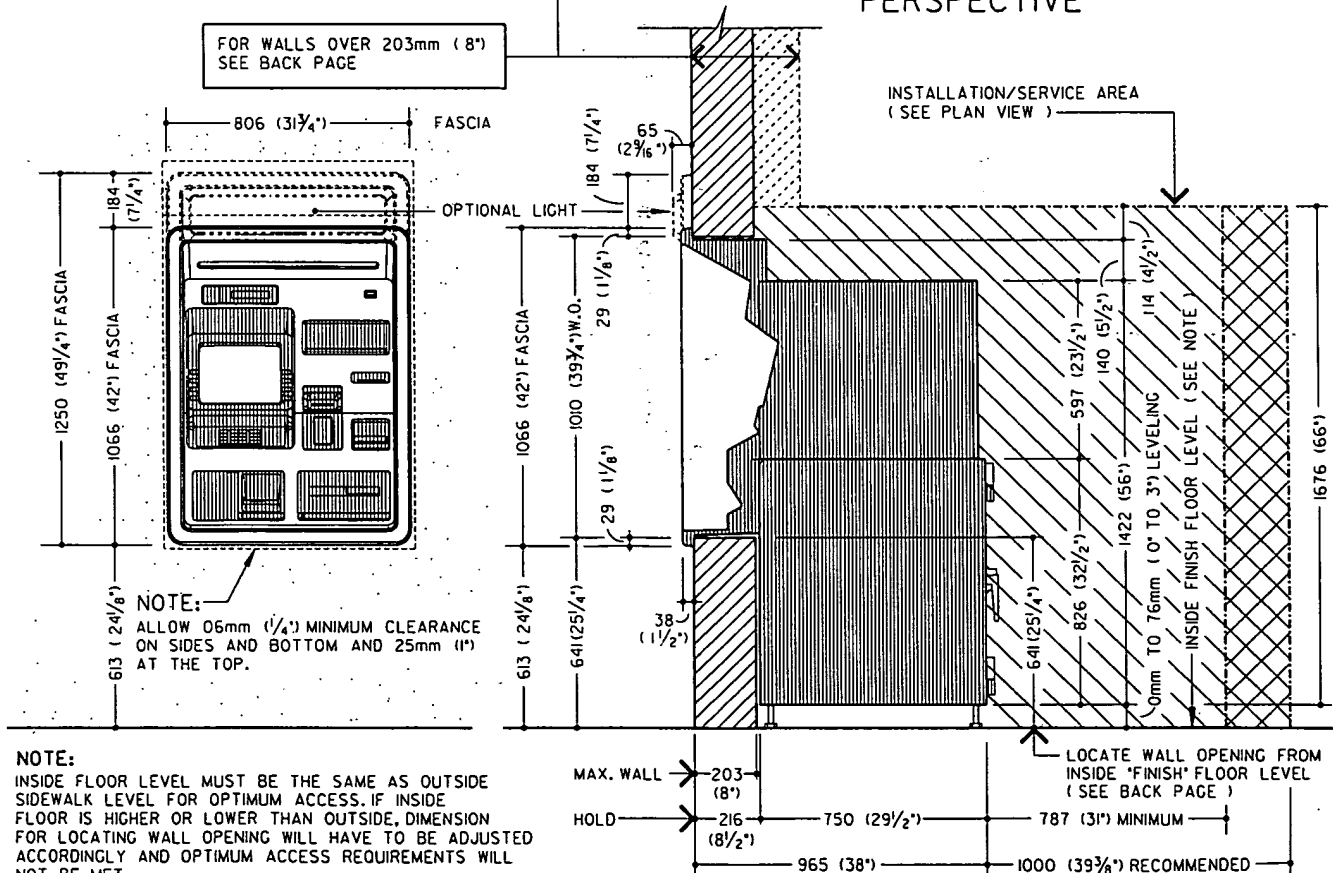
SHOWN IS THE MINIMUM/RECOMMENDED AREA REQUIRED FOR INSTALLATION AND SERVICE. THESE DIMENSIONS SHOWN MAY BE INCREASED WHEREVER POSSIBLE TO IMPROVE INSTALLATION AND SERVICE ACCESS. USE OF ANY AREA LESS THAN THE RECOMMENDED AREA MAY RESULT IN AN INCREASE IN INSTALLATION AND SERVICE TIME. CONSULT WITH DIEBOLD INSTALLATION/SERVICE BRANCH FOR SPECIAL BUILDING CONDITIONS.

RECOMMENDED SERVICE AREA  
 MINIMUM SERVICE AREA



PERSPECTIVE

FOR WALLS OVER 203mm (8")  
SEE BACK PAGE



NOTE:  
INSIDE FLOOR LEVEL MUST BE THE SAME AS OUTSIDE SIDEWALK LEVEL FOR OPTIMUM ACCESS. IF INSIDE FLOOR IS HIGHER OR LOWER THAN OUTSIDE, DIMENSION FOR LOCATING WALL OPENING WILL HAVE TO BE ADJUSTED ACCORDINGLY AND OPTIMUM ACCESS REQUIREMENTS WILL NOT BE MET.

EXTERIOR ELEVATION

VERTICAL SECTION



## CONDUIT AND JUNCTION BOX REQUIREMENTS

- 25mm (1") METAL CONDUIT FROM ALARM CONTROL CABINET JUNCTION BOX TO 102mm (4") SO. X 54mm (2 1/4") DP. JUNCTION BOX (ALL BY E.C.) DIEBOLT TO PROVIDE FLAT COVER WITH TAMPER SWITCH.
- WHEN 'SECUROMATIC' AFTER HOUR DEPOSITORY IS TO BE CONNECTED TO ATM UNIT, E.C. TO RUN 19mm (3/4") METAL CONDUIT FROM 102mm (4") SO. X 54mm (2 1/4") DP. JUNCTION BOX TO AFTER HOUR DEPOSITORY.
- E.C. TO RUN 19mm (3/4") LIQUID TIGHT FLEX METAL CONDUIT OR 19mm (3/4") RIGID CONDUIT FROM JUNCTION BOX TO CABLE CONNECTING PLATE.
- 19mm (3/4") METAL CONDUIT AND UNSWITCHED ELECTRICAL SUPPLY TO 102mm (4") SO. X 54mm (2 1/4") DP. JUNCTION BOX WITH RECEPTACLE WITHIN 2184mm (86") OF SIDE OR FRONT CONNECTING PLATE. BOTTOM CONNECTION MUST BE COMPENSATED ACCORDINGLY (ALL BY E.C.) (SEE POWER REQUIREMENTS).
- E.C. TO SUPPLY COMPATIBLE RECEPTACLE FOR COUNTRY SPECIFIC PLUG-IN CONNECTOR SUPPLIED WITH UNIT. POWER CORD LENGTH 2184mm (86") FROM SIDE OF UNIT.

FOR DESK TOP MODEMS- NO CONDUIT REQUIRED FOR DATA LINE CABLE. MODEM MUST BE INSTALLED WITHIN 12802mm (42'-0") CABLE RUN OF THE UNIT.

DATA CABLE MUST BE AT LEAST 51mm (2") FROM ANY A.C. POWER CABLE.

DESK TOP MODEMS MUST BE WITHIN 1828mm (6'-0") OF A STANDARD, SINGLE PHASE, THREE-WIRE OUTLET.

### NOTE:

JUNCTION BOXES MUST BE LOCATED WITHIN 2184mm (86") OF CONNECTING PLATE. (LENGTH OF ELECTRICAL POWER CABLE PROVIDED WITH UNIT). LOCATE IN AN EASILY ACCESSIBLE AREA.

BOXES CAN BE FLUSH MOUNTED WITH CONCEALED CONDUIT FOR NEW CONSTRUCTION OR BOXES CAN BE SURFACE MOUNTED WITH EXPOSED CONDUIT FOR EXISTING CONSTRUCTION.

## SPECIFICATIONS

### PHYSICAL SECURITY

THE SECURITY SAFE MEETS THE BANK PROTECTION ACT 82 STAT 295, 12 USC 882, AND MEETS THE ATTACK TEST PER UL 291-15. THE SAFE DOOR HAS A POSITIVE RELOCKING FEATURE. THE SAFE DOOR IS CONTROLLED BY A GROUP 2 COMBINATION LOCK WITH OR WITHOUT KEYLOCKING DIAL CAPABILITY OR OPTIONAL ELECTRONIC LOCK.

### ALARM PROTECTION

THE UL-LISTED SAFE IS EQUIPPED WITH A BASIC ALARM SENSOR PACKAGE. THE BASIC PACKAGE INCLUDES A SAFE DOOR OPEN SWITCH, ALARM SHUNTING SWITCH, AND RATE-OF-RISE HEAT SENSOR.

### POWER REQUIREMENTS

THE ATM REQUIRES A SINGLE-PHASE THREE-WIRE UNSWITCHED POWER OUTLET. WIRING TO THE ATM MUST USE A THIRD-WIRE EARTH GROUND (CONDUIT GROUND IS NOT ACCEPTABLE). THE POWER SUPPLIED MUST BE AS SPECIFIED BELOW:

100-127 VAC (+6%,-10%) 50Hz (+/-1%) SINGLE PHASE  
100-127 VAC (+6%,-10%) 60Hz (+/-1%) SINGLE PHASE  
200-240 VAC (+/-10%) 50Hz (+/-1%) SINGLE PHASE  
200-240 VAC (+/-10%) 60Hz (+/-1%) SINGLE PHASE

POWER TO THE ATM MAY BE A BRANCH OR DEDICATED SERVICE AND MUST BE PROTECTED BY A SAFETY QUICK-DISCONNECT DEVICE TO BREAK LINE VOLTAGE (SUCH AS A CIRCUIT BREAKER AT THE ELECTRICAL SERVICE PANEL). THE QUICK DISCONNECT DEVICE (OR CIRCUIT BREAKER) MUST TURN OFF THE LINE VOLTAGE AT THE AMPERAGE SPECIFIED BELOW.

100-127 VAC SERVICE, DISCONNECT AT 20 AMPERES  
200-240 VAC SERVICE, DISCONNECT AT 10 AMPERES

INSTALLATIONS OUTSIDE THE U.S.A. MUST INCLUDE EARTH FAULT PROTECTION.

OTHER ELECTRONIC DEVICES SHARING POWER ON A COMMON BRANCH CIRCUIT MUST CONFORM TO THE SAME CONDUCTED INTERFERENCE STANDARDS AS THE ATM.

### POWER USAGE FOR WALK-UP ATM

MACHINE STATUS	① STANDARD DEVICES	② COLOR MONITOR	③ MAXIMUM DEVICES
IDLE (NO TRANSACTION)	195 WATTS	300 WATTS	850 WATTS
TRANSACTION (DISPENSE) IN PROGRESS	320 WATTS	425 WATTS	975 WATTS

① CTP OR HTP PROCESSOR, MONOCHROME MONITOR, MOTORIZED CARD READER, JOURNAL PRINTER, CONSUMER PRINTER, STANDARD DEPOSITOR, AND FOUR-HIGH DISPENSER.

② SAME AS (1) ABOVE WITH 381(15") COLOR MONITOR REPLACING 229 (9") MONOCHROME MONITOR.

③ SAME AS (2) ABOVE WITH HEATER.

THE POWER USE DEPENDS ON THE NUMBER AND TYPE OF DEVICES PRESENT IN THE ATM, AND THE TYPE OF TRANSACTION THE ATM IS PERFORMING.

### HEAT OUTPUT

3,327 BTU/HR MAX. WITH HEATERS (DISPENSE) - 1,024 BTU/HR WITHOUT HEATERS (IDLE)

### OPERATING ENVIRONMENT

SAFE LOCATION ————— 10° C to 38° C (50° F to 100° F)  
RELATIVE HUMIDITY: (NON-CONDENSING)  
20 TO 80% AT 32° C (90° F),  
20 TO 55% AT 38° C (100° F)

FASCIA LOCATION ————— -34° C to 54° C (-30° F to 130° F)

WEIGHT OF UNIT  
680 kg (1,500 LBS.)

	DEPOSIT SLOT Ⓐ	CONSUMER KEYBOARD TOP ROW Ⓑ	TOP FUNCTION KEY Ⓒ	STATEMENT PRINTER Ⓓ	CONSUMER PRINTER Ⓔ	CARD READER Ⓕ	PRESENTER Ⓖ	COIN POCKET Ⓗ
HEIGHT FROM BOTTOM OF SAFE (WITHOUT LEVELING LEGS)	681 (26 1/8")	909 (35 1/8")	1095 (43 1/8")	1189 (46 1/8")	1080 (42 1/2")	1000 (39 3/8")	711 (28")	709 (27 7/8")
DEPTH FROM FRONT EDGE OF ATM BEZEL (WITH STANDARD WALL COLLAR)	197 (7 3/4")	244 (9 5/8")	289 (11 3/8")	184 (7 1/4")	165 (6 1/2")	162 (6 3/8")	143 (5 5/8")	221 (8 7/8")

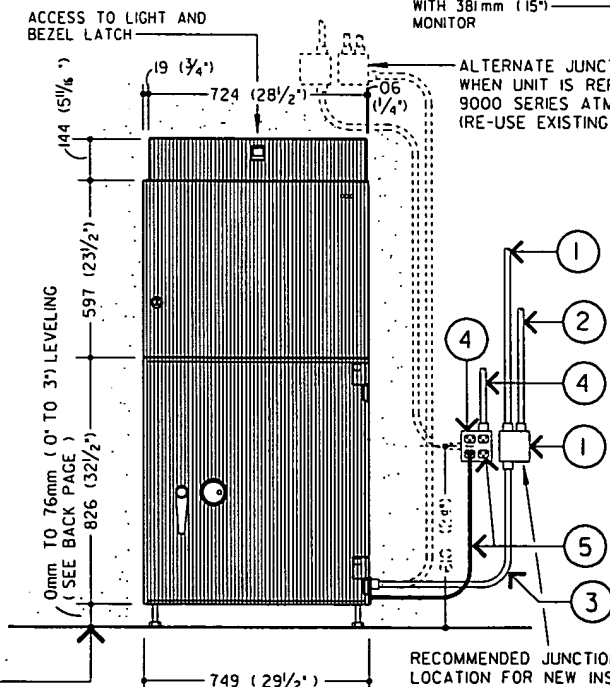
ACCESS TO LIGHT AND  
BEZEL LATCH

478X KEY SPACING  
WITH 381mm (15")  
MONITOR

HEIGHT IS TO CENTER OF COIN POCKET,  
DEPTH IS TO BACK OF COIN POCKET

ALTERNATE JUNCTION BOX LOCATION  
WHEN UNIT IS REPLACING EXISTING  
9000 SERIES ATM  
(RE-USE EXISTING JUNCTION BOXES)

LIGHT BOX

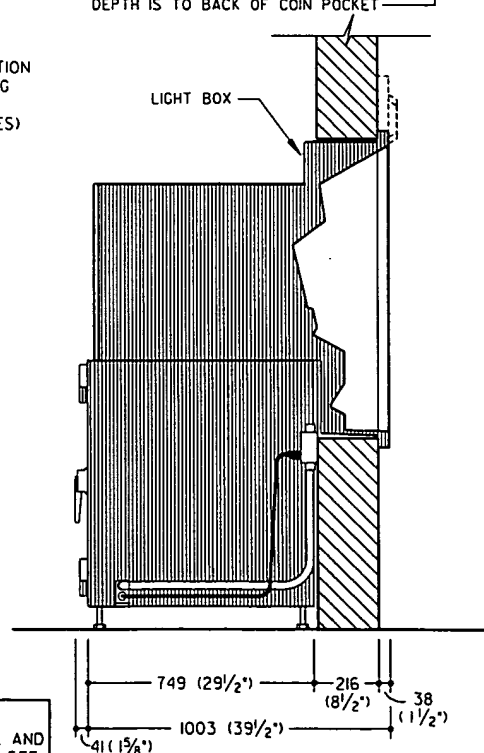


### NOTE:

OPTIONAL LEVELING LEG  
KIT 00-101795-000A IS AVAILABLE  
FOR 76mm TO 152mm (3" TO 6") LEVELING

### NOTE:

FOR ELECTRICAL POWER, DATA CABLE AND  
ALARM CABLE OPENINGS INTO CHEST SEE  
BACK OF PAGE.



## VERTICAL SECTION

DIMENSIONS IN MILLIMETRES  
(DIMENSIONS IN INCHES)



PAGE 2 OF 4

"ALL DIMENSIONS AND DESIGN CRITERIA  
SUBJECT TO CHANGE WITHOUT NOTICE."

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DIMENSIONS IN MILLIMETRES  
(DIMENSIONS IN INCHES)



PAGE 3 OF 4

"ALL DIMENSIONS AND DESIGN CRITERIA  
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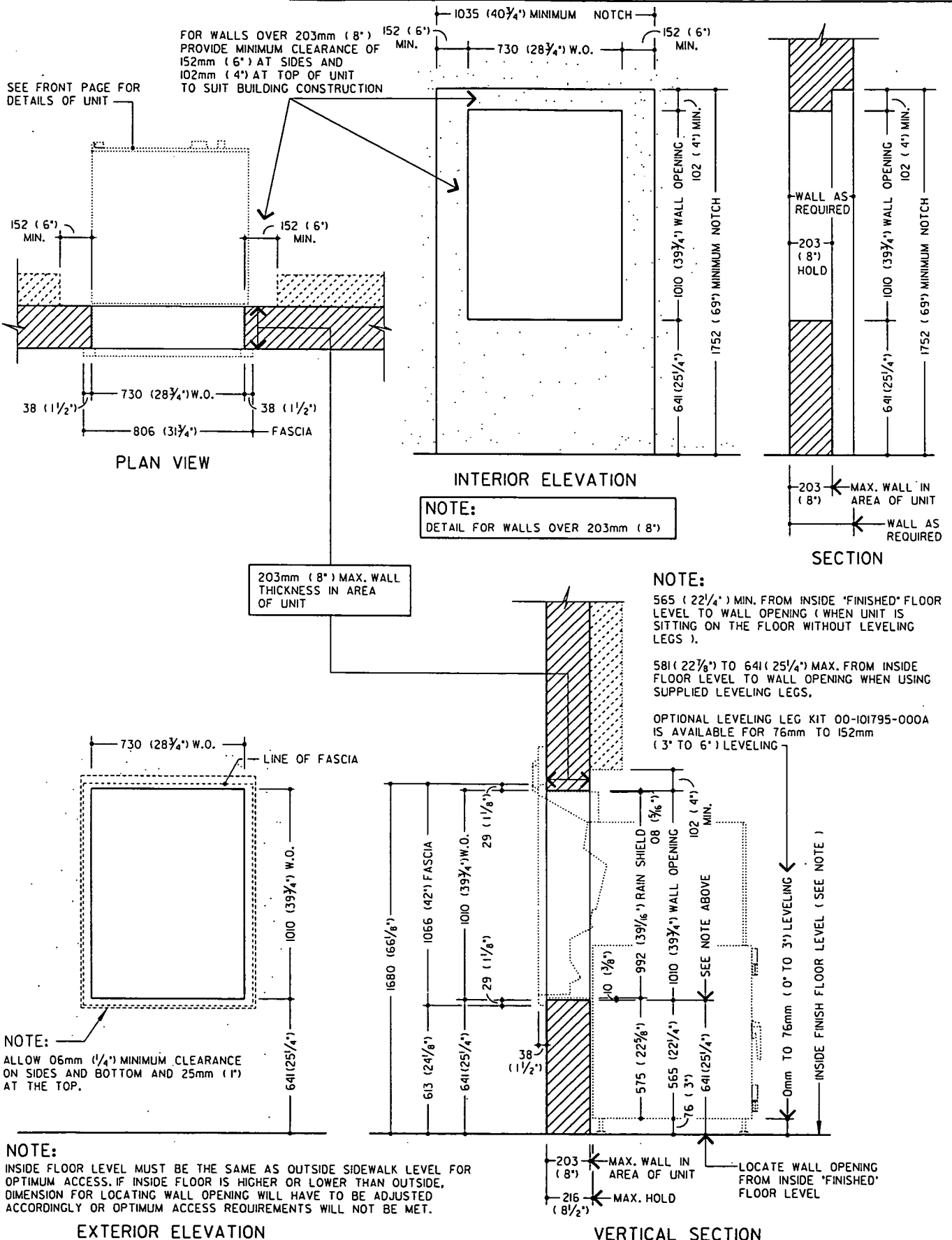


Diagram illustrating the side view of the unit, showing dimensions and cable connection details:

- Overall height: 826 (32 1/2")
- Height from base to top of unit: 737 (29")
- Height from base to bottom of unit: 89 (3 1/2")
- Base width: 114 (4 1/2")
- Distance from base to cable connecting plate: 591 (23 3/4")
- Distance from base to cable connecting plate (alternative measurement): 44 (1 3/4")
- Power cord length: 2184mm (86") FROM SIDE OF UNIT
- Cable connecting plate

Additional text on the right side of the diagram:

ELECTRIC  
OPENING  
THE P  
SAFE  
SIDE C  
IS ON